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# STATE OF ARIZONA DEPARTMENT OF INSURANCE

FEB 2 3 2001
DEPT. OF INSURANCE
BY

In the Matter of:

HUMANA INSURANCE COMPANY (NAIC #62189),

Respondent

Docket No. 01A-051-INS

CONSENT ORDER

A health care appeals audit was made of Humana Insurance Company, hereinafter referred to as "Humana," by the Health Care Appeals Examiner for the Arizona Department of Insurance (the "Department") and was completed on December 11, 2000. The audit covered informal reconsideration and formal appeals from July 1, 1998, through December 31, 1999. Based upon the audit results, it is alleged that Humana has violated the provisions of A.R.S. §§20-461, 20-2533, 20-2535, and 20-2536.

The Examiner reviewed Humana's health care appeals procedures, expedited, informal, formal, and external health care appeals files, and other materials sent to the Department in response to a May 1999 health care appeals survey and in response to the audit call letter.

Humana wishes to resolve these matters without formal adjudicative proceedings, admits the following Findings of Fact are true and consents to entry of the following Conclusions of Law and Order.

#### **FINDINGS OF FACT**

- 1. Humana is a Missouri domiciled life and disability insurer authorized to transact health insurance business pursuant to a certificate of authority issued by the Director.
- 2. The Examiner was authorized by the Director to conduct a heath care appeals audit of Humana and has prepared a Report of Examination of the Health Care Appeals of Humana ("the Report").

- 3. The Examiner reviewed Humana's health care appeals information packet and found the following deficiencies:
- a. Humana failed to distribute an approved appeals packet until after September
   24, 1998.
- b. Humana identified two cases as formal appeals that were not processed first as informal reconsiderations or expedited medical reviews. Humana's health care appeals information packet provides that claim denials begin the appeals process at the informal reconsideration level. Humana's appeals packet conflicts with the way Humana, in fact, processes appeals involving denied claims.
- 4. The Examiner reviewed six informal reconsideration appeals that involved denials as defined under Arizona law, and found that all six files contained at least two deficiencies. The deficiencies are as follows:
- a. Humana failed to distribute a health care appeals packet to the member and treating provider in six cases.
- b. Humana failed to send written acknowledgment of the request for appeal to the treating provider in five cases.
- c. Humana failed to send written notice of the decision to the treating provider following the informal reconsideration appeal in two cases.
- d. Humana failed to inform members in two cases of the right to request a formal appeal following the informal reconsideration, and if the formal appeal is upheld, an external independent review.
- e. Humana informed members in two cases where the original denials had been overturned that the member was entitled to request a formal appeal.
- f. Humana informed one member that the appeal must be requested only in writing.

- 5. The Examiner reviewed two formal appeals, and found that both files contained at least two deficiencies. The deficiencies are as follows:
- a. Humana failed to send the treating provider an acknowledgment of the formal appeal request in two cases.
- b. Humana failed to send the member or treating provider a health care appeals information packet with the acknowledgment letter in two cases.
- c. Humana failed to include the criteria used and the clinical reasons for its decision in two formal appeal decision letters.
- Humana's deficiencies outlined above indicate that its general business practices
   do not comply with the provisions of Arizona's health care appeal laws.

#### **CONCLUSIONS OF LAW**

- 1. Humana violated A.R.S. §20-2533(C) by failing to distribute approved health care appeals information packets with newly issued policies and by failing to reflect in the packet how it processes appeals involving denied claims.
- 2. Humana violated A.R.S. §20-2535(B) by failing to send acknowledgment letters of informal reconsideration appeal requests to treating providers and by failing to include health care appeals information packets with the acknowledgment letters to members and treating providers.
- 3. Humana violated A.R.S. §20-2535(D) by failing to send treating providers written notice of its decision following informal reconsideration appeals.
- 4. Humana violated A.R.S. §20-2535(F) by failing to inform members of the right to request a formal appeal following an informal reconsideration, and if the informal appeal is upheld, an external independent review.

- 5. Humana violated A.R.S. §20-2536(B) by failing to send acknowledgment letters of formal appeal requests to treating providers and by failing to provide health care appeals information packets with the acknowledgment letters to members and treating providers.
- 6. Humana violated A.R.S. §20-2536(E) by failing to include the criteria used and the clinical reasons for the decision in formal appeal decision letters.
- 7. Humana violated A.R.S. §20-461(A)(17) by failing to comply with the health care appeal laws with such a frequency as to indicate a general business practice.

#### **ORDER**

### IT IS HEREBY ORDERED THAT:

- 1. Within 90 days of the filed date of this Order, Respondent shall provide the Department with a copy of all written policies and procedures, including amended procedures effective 2001.
- 2. Respondent shall cease and desist from the following acts, as required by the statutes shown:
- a. failing to issue health care appeals information packets to all newly-issued policies (A.R.S. §20-2533(C));
- b. failing to include health care appeals information packets to members and their treating providers with the acknowledgment letters of informal reconsideration and formal appeal requests (or as otherwise required by law) (A.R.S. §§20-2535(B) and 20-2536(B));
- c. failing to send written acknowledgement letters within five business days after receiving the original requests for informal reconsideration and formal appeals (A.R.S. §§20-2535(B) and 20-2536(B));
- d. failing to send treating providers written notices of decisions following informal reconsideration appeals (A.R.S. §20-2535(D));

- e. failing to inform members of the right to request a formal appeal following an informal reconsideration, and if the informal appeal is upheld, an external independent review (A.R.S. §20-2535(F));
- f. failing to include the criteria used and clinical reasons for the decision in formal appeal decision letters (A.R.S. §20-2536(E));
- g. advising members that they are entitled to request a formal appeal following informal reconsiderations where the denial was fully overturned (A.R.S. §20-2535(F));
- h. advising members that informal reconsideration appeals must be requested in writing (A.R.S. §20-2535(A)).
- 3. Humana shall pay a civil penalty of ten thousand dollars (\$10,000.00) to the Director for remission to the State Treasurer for deposit in the State General Fund in accordance with A.R.S. §20-220(B). Said amount shall be provided to the Health Care Appeals Section of the Department prior to the filing of this Order.
- 4. The Report of Examination dated December 11, 2000, and any objections to the Report submitted by Humana, shall be filed with the Department upon the filing of this Order.

DATED this 22 day of February, 2001.

Charles R. Cohen Director of Insurance

## **CONSENT TO ORDER**

- 1. Respondent, Humana Insurance Company, has reviewed the foregoing Order.
- Respondent admits the jurisdiction of the Director of Insurance, State of Arizona, admits the foregoing Findings of Fact are true, and consents to the entry of the Conclusions of Law and Order.
- 3. Respondent is aware of the right to a hearing, at which it may be represented by counsel, present evidence and cross-examine witnesses. Respondent irrevocably waives the right to such notice and hearing and to any court appeals related to this Order.
- 4. Respondent states that no promise of any kind or nature whatsoever was made to induce it to enter into this Consent Order and that it has entered into this Consent Order voluntarily.
- 5. Respondent acknowledges that the acceptance of this Order by the Director of the Arizona Department of Insurance is solely for the purpose of settling this matter and does not preclude any other agency or officer of this state or its subdivisions or any other person from instituting proceedings, whether civil, criminal, or administrative, as may be appropriate now or in the future.
- 6. Walter E. Neely , who holds the office of <u>Vice President</u> of Respondent, is authorized to enter into this Order for it and on its behalf.

HUMANA INSURANCE COMPANY

2/14/61 (date)

Walter E. Neely, Vice President

COPY of the foregoing mailed/delivered this <u>23rd</u> day of <u>February</u>, 2001 to:

Sara Begley

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**Deputy Director** 

| 1   | Vista Brown   |
|-----|---|
| 2   | Executive Assistant Gerrie Marks  |
|     | Executive Assistant   |
| 3   | Catherine O'Neil  |
| 4   | Consumer Legal Affairs Officer/Custodian of Records Mary Butterfield Assistant Director |
| 5   | Consumer Affairs Division   |
| 6   | Alexandra Shafer Assistant Director Life and Health Division                            |
| 7   | Deloris E. Williamson   |
| 0   | Assistant Director  |
| 8   | Rates & Regulations Division Steve Ferguson   |
| 9   | Assistant Director  |
| 10  | Financial Affairs Division Nancy Howse  |
| 10  | Chief Financial Examiner  |
| 11  | Financial Affairs Division  |
| 12  | DEPARTMENT OF INSURANCE<br>2910 North 44th Street, Suite 210                            |
| 13  | Phoenix, AZ 85018   |
| 14  | Ludy Engin  |
| 15  | Judy Erwin Senior Regulatory Affairs Analyst  |
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